

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ERIC OWENS,

Plaintiff,

-against-

THE INCORPORATED VILLAGE OF GARDEN CITY,
et al.,

Defendants.

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AZRACK, United States District Judge:

By Memorandum and Order dated November 8, 2024, the Court denied plaintiff, Eric Owen's ("Plaintiff"), motion to dismiss the three traffic summonses pending in the Village of Garden City Justice Court ("Justice Court") and stayed this case until after disposition of Plaintiff's underlying Justice Court proceedings. (ECF No. 24.) On November 25, 2024, Plaintiff filed a Notice of Appeal together with an application to proceed in forma pauperis on appeal. (ECF Nos. 27-28.) Plaintiff had paid the filing fee in this Court to commence this action. (See Filing Fee, Receipt No. 200002448.) For the following reasons, the motion to appeal in forma pauperis is denied.

DISCUSSION

Pursuant to Federal Rule of Appellate Procedure 24(a)(1), a party who did not proceed in forma pauperis in the district court, but who wishes to so proceed on appeal, must file a motion with the district court and "attach an affidavit that: (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on

**FILED
CLERK**

1:07 pm, Jan 03, 2025

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

ORDER
23-CV-07730 (JMA) (ST)

appeal.” Here, Plaintiff does not state any of the issues he intends to present on appeal nor does he claim an entitlement to redress. (See ECF No. 27.) Nor does Plaintiff demonstrate an inability to pay the filing fee. Although Plaintiff reports monthly wages in the sum of approximately \$1,200 and no debts or financial obligations other than an unspecified monthly expense for “cell phone, cable and internet”, he reports having negative \$9.00 in an account and reports no monthly expenses for items such as food, housing, utilities, transportation, etc. (*Id.* ¶ 4.) Of note, Plaintiff reports a residential address at 14 Butler Street, Apt. 2, in Glen Cove, New York. (ECF No. 20.) As is readily apparent, Plaintiff’s motion fails to articulate any grounds for this appeal or any errors committed by the district court, nor does it adequately demonstrate an inability to pay the filing fee. Thus, “there is no basis for the Court to grant *in forma pauperis* status for appeal purposes.” *In re Nassau Cnty. Strip Search Cases*, No. 99-CV-2844, 2010 WL 4021813, at *1 (E.D.N.Y. Sept. 29, 2010). Moreover, the Court has already denied leave to appeal *in forma pauperis* finding that there is no good faith basis for an appeal from the November 8, 2024 Memorandum and Order. (See Mem & Order, ECF No. 24 at 9) (“Should Plaintiff seek leave to appeal *in forma pauperis* (“IFP”), the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore IFP status is denied for the purpose of any appeal. *See Coppededge v. United States*, 369 U.S. 438, 444–45 (1962). Accordingly, plaintiff’s motion for *in forma pauperis* status on appeal is denied.”).

CONCLUSION

For the reasons set forth above, Plaintiff’s motion for leave to appeal *in forma pauperis* is denied. Pursuant to Rule 24(a)(4) of the Federal Rules of Appellate Procedure, the Clerk of the Court shall serve notice of entry of this order upon both parties and “immediately notify” the United States Court of Appeals for the Second Circuit of this decision. Pursuant to Rule

24(a)(5) of the Federal Rules of Appellate Procedure, Plaintiff may file a motion for leave to proceed on appeal in forma pauperis in the United States Court of Appeals for the Second Circuit within thirty (30) days after the Clerk of this Court serves notice of entry of this order upon him.

The Court has reviewed the record and again certifies that, pursuant to 28 U.S.C. § 1915(a)(3), any appeal from the November 8, 2024 Memorandum and Order or this Order would not be taken in good faith. See Coppededge v. United States, 369 U.S. 438, 444-45 (1962). Accordingly, Plaintiff's application for leave to appeal in forma pauperis on appeal is denied.

SO ORDERED.

Dated: January 3, 2025
Central Islip, New York

/s/ JMA

Joan M. Azrak
United States District Judge